

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

PLAINTIFF

v.

(S1) 07 Cr. 453 (SHS)

ROBERT COPLAN,  
MARTIN NISSENBAUM,  
RICHARD SHAPIRO,  
BRIAN VAUGHN, DAVID L. SMITH,  
AND CHARLES BOLTON

DEFENDANTS

**REPLY DECLARATION OF PETER H. BARRETT**

Peter H. Barrett, pursuant to 28 U.S.C. §1746, under penalty of perjury, declares as follows:

1. I am an attorney employed by Butler, Snow, O'Mara, Stevens & Cannada, PLLC (Butler Snow) and I am one of the counsel of record for Brian Vaughn. I have previously made declarations to this Court in support of Brian Vaughn's motion for change of venue from the Southern District of New York to the Middle District of Tennessee pursuant to Rule 21(b) Fed. R. Crim. P. This Declaration serves to supplement that previously made by me.

2. In reply to the Government's request that transfer of venue be denied, Defendant Vaughn through counsel will submit for *in camera* review by the Court certain potential witnesses, their location and expected testimony. The *in camera* submission is incorporated herein by reference for the purpose of bringing it within the representations made as part of this Declaration. It is marked Exhibit A. As can be seen from the list and representations therein, there are witnesses vital to Defendant Vaughn's defense who will be inconvenienced, adversely affected by, and placed at great hardship if required to travel to the Southern District of New York for trial, an expensive, uncertain and time consuming air travel trip rather than the Middle District of Tennessee, which is a relatively modest eight hour automobile trip.

3. Further, in connection with the rely brief in support of Brian Vaughn's Motion for Change of Venue I have caused airline schedules to be searched by accessing computerized airline travel information through Expedia.Com. The data was compiled between May 12 and May 26, 2008 and was updated periodically through June 16, 2008. Further, it was done at my direction and under control. Searches were made of airline schedules for flight data during March and April 2009. Attached as Exhibit B to this Reply Declaration is a summary of flight data for relevant days in March and April 2009. Included in Exhibit B are self-explanatory guidelines we used to determine qualifying flights for dates in March 2009 and the raw data for March 2009. We determined that other corresponding data for relevant dates in March and April 2009 were repetitive and voluminous and were substantially the same as that which is attached. Note that the attached raw data has qualifying flights highlighted.

4. Also attached as exhibits to this declaration are newspaper articles, a magazine article and a U.S. Department of Transportation, Bureau of Transportation Statistics document. Those exhibits are identified and marked as follows:

- Exhibit C: Micheline Maynard, *Airlines' Cuts Making Cities NO-Fly Zones*, N.Y. TIMES, May 21, 2008.
- Exhibit D: Marilyn Adams, et al, *Fliers in for Pain as Airlines Pack It In*, USA TODAY, June 3, 2008
- Exhibit E: Michael Idov, *Gridlock at 30,000 Feet What Went So Catastrophically Wrong*, New York, Nov. 5, 2007.
- Exhibit F: *On-Time Arrival Performance, Nashville, TN: Nashville Metropolitan (June, 2003 – April, 2008)*; Bureau of Transportation Statistics, Airline Service Quality Performance 234.

5. I declare under penalty of perjury and pursuant to 28 U.S.C. §1746 that the foregoing is true and correct to the best of my knowledge and belief.

Dated: June 16, 2008.



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